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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 MADIHA MINER,

11 Plaintiff,

12 v.

13 SOCIAL SECURITY  
14 ADMINISTRATION,

15 Defendant.

CASE NO. C19-0821JLR

ORDER DISMISSING ACTIONS  
AND DECLARING PLAINTIFF A  
VEXATIOUS LITIGANT  
(APPLICABLE TO BOTH  
CONSOLIDATED ACTIONS)

16 MADIHA MINER,

17 Plaintiff,

18 v.

19 KING COUNTY HOUSING  
20 AUTHORITY SECTION 8,

21 Defendant.  
22

CASE NO. C19-0822JLR

## I. INTRODUCTION

On June 28, 2019, the court entered two orders dismissing Plaintiff Madiha Miner's complaints in case numbers C19-0812JLR and C19-0822JLR and allowing Ms. Madiha 14 days to file amended complaints. (19-0821 Dkt. # 9; 19-0822 Dkt. # 16.)<sup>1</sup> The court warned Ms. Miner that if she failed to file amended complaints that corrected her pleading deficiencies, the court would dismiss her complaints without leave to amend. (19-0821 Dkt. # 9 at 6; 19-0822 Dkt. # 16 at 6.) On July 9, 2019, the court consolidated case numbers C19-0812JLR and C19-0822JLR. (*See* Min. Order (19-0821 Dkt. # 16; 19-0822 Dkt. # 24).) On July 11, 2019, Ms. Miner filed amended complaints related to both of her case numbers. (19-0821 Dkt. ## 18, 18-1.) As discussed below, Ms. Miner's amended complaints fail to correct her pleading deficiencies. Accordingly, the court DISMISSES her complaints with prejudice and without leave to amend.

On July 10, 2019, the court issued an order to show cause in the consolidated cases why the court should not enter a vexatious litigant order against Ms. Miner and impose litigation restrictions upon her in the Western District of Washington. (OSC (19-0821 Dkt. # 17) at 8-12.) The court granted Ms. Miner 14 days to respond to the order to show cause. (*Id.* at 10-12.) Ms. Miner failed to timely file a response to the court's order to show cause (*see generally* Dkt.), and accordingly, the court ENTERS a vexatious litigant order against her as set forth below.

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<sup>1</sup> On July 9, 2019, the court consolidated case numbers C19-0821JLR and C19-0822JLR. (*See* Min. Order (19-0821 Dkt. # 16; 19-0822 Dkt. # 24).) The court clarifies to which docket it refers by placing the case number before each citation to the record.

## II. BACKGROUND

On April 8, 2019, Ms. Miner filed her first suit in the Western District of Washington—*Miner v. Social Security Administration Disability*, No. C19-0505JCC (W.D. Wash.). On July 8, 2019, the Honorable John C. Coughenour granted the defendant's motion to dismiss but allowed Ms. Miner 21 days to file an amended complaint. (19-0505 Dkt. # 8.) Ms. Miner failed to timely file an amended complaint, and on July 8, 2019, Judge Coughenour dismissed her complaint. (19-0505 Dkt. # 13.)

On May 30, 2019, Ms. Miner filed three more lawsuits in the Western District of Washington: (1) *Miner v. Social Security Administration*, No. C19-0821JLR (W.D. Wash.), (2) *Miner v. King County Housing Authority Section 8*, No. C19-0822JLR (W.D. Wash.); and (3) *Miner v. Issaquah Police Department*, No. C19-0823RAJ (W.D. Wash.). On June 28, 2019, the court (1) dismissed both complaints in case numbers C19-0821JLR and C19-0822JLR, pursuant to 28 U.S.C. § 1915(e), with leave to file amended complaints within 14 days, and (2) denied a series of motions that Ms. Miner had already filed in case number C19-0822JLR. (See 6/28/19 Order (19-0821 Dkt. # 9); 6/28/19 Order (19-0822 Dkt. # 16).) On July 9, 2019, the court consolidated case numbers C19-0812JLR and C19-0822JLR. (See Min. Order (19-0821 Dkt. # 16; 19-0822 Dkt. # 24).) On July 18, 2019, Ms. Miner filed a notice of appeal in the consolidated cases. (Not. of App. (19-0821 Dkt. # 19); see also Not. of App. (19-0822 Dkt. # 25).)

Ms. Miner filed 19 motions in case number C19-0823RAJ. (See 19-0823 Dkt. ## 9-14, 18, 20-21, 23-24, 26, 28-29, 32-36.) On July 29, 2019, the court dismissed Ms. Miner's complaint in case number C19-0823RAJ with leave to amend no later than

1 August 12, 2019, and denied or struck each her pending motions. (*See* 19-0823 Dkt.  
2 # 37.)

3 In addition to the above four lawsuits, on June 3, 2019, Ms. Miner removed four  
4 of her own actions from King County Superior Court, including: *Miner v. Culjat*,  
5 No. C19-0846JLR (W.D. Wash.); *Miner v. King County Superior Court – Juvenile*,  
6 No. C19-0847JLR (W.D. Wash.); *Miner v. King County Housing Authority Section*  
7 *Eight*, No. C19-0848JLR (W.D. Wash.); and *Miner v. Issaquah Police Department*,  
8 No. C19-0849JLR (W.D. Wash.). On June 19, 2019, the court concluded that it lacked  
9 subject matter jurisdiction over Ms. Miner’s removed actions and remanded them all to  
10 King County Superior Court. (*See* 19-0846 6/19/19 Order (Dkt. # 7); 19-0847 6/19/19  
11 Order (Dkt. # 6); 19-0848 6/19/19 Order (Dkt. # 7); 19-0849 6/19/19 Order (Dkt. # 6).)

12 Despite the court’s orders either dismissing her complaints or remanding her  
13 actions, Ms. Miner continued to file meritless motions in most of her cases. The court  
14 will briefly recount Ms. Miner’s litigation activity in each of her matters. On July 1,  
15 2019, in case number C19-0821JLR, Ms. Miner filed two frivolous motions (*see* 19-0821  
16 Dkt. ## 10, 11), which the court struck on July 3, 2019 (19-0821 Dkt. # 12). The court  
17 warned Ms. Miner that it would consider entering a vexatious litigant order against her if  
18 she continued to file motions prior to filing an amended complaint. (*See id.* at 2-3.)  
19 Despite this warning, on July 8, 2019, Ms. Miner filed two more motions—a motion to  
20 appoint counsel and a motion to “cease and desist” against SSA. (19-0821 Dkt. ## 13,  
21 14.) On July 10, 2019, the court denied these motions. (19-0821 Dkt. # 17 at 6-8.)

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1 On June 25, 2019, Ms. Miner filed three nonsensical motions in case number  
2 C19-0822JLR. (*See* 19-0822 Dkt. ## 7, 9, 11.) The court denied these motions in the  
3 same order in which it dismissed her complaint. (19-0822 6/28/19 Order at 6-7.) On July  
4 1-2, 2019, Ms. Miner filed three more motions in case number C19-0822JLR. (*See*  
5 19-0822 Dkt. ## 17-19.) On July 3, 2019, the court struck these motions and warned Ms.  
6 Miner that it would consider entering a vexatious litigant order against her if she  
7 continued to file motions prior to filing an amended complaint. (19-0822 Dkt # 20.)  
8 Despite this warning, on July 8, 2019, Ms. Miner filed a motion seeking the appointment  
9 of counsel. (19-0822 Dkt. # 22.) On July 10, 2019, the court denied this motion.  
10 (19-0821 Dkt. # 17 at 6-8.)

11 On July 8, 2019, despite an order remanding case number C19-0846JLR to King  
12 County Superior Court for lack of subject matter jurisdiction (19-0846 Dkt. # 7), Ms.  
13 Miner filed a motion to appoint counsel (19-0846 Dkt. # 9). On July 9, the court struck  
14 this motion and directed the Clerk not to accept any further filings from Ms. Miner in that  
15 matter, except for a notice of appeal, and to return any such attempted filings to her.  
16 (19-0846 Dkt. # 11.)

17 On June 25, 2019, despite an order remanding case number C19-0847JLR to King  
18 County Superior Court for lack of subject matter jurisdiction, Ms. Miner filed three  
19 nonsensical motions. (*See* 19-0847 Dkt. ## 7, 9, 11; *see also* Dkt # 6 (remanding  
20 action).) On June 26, 2019, the court struck these motions. (19-0847 Dkt. # 12.) On  
21 July 1, 2019, Ms. Miner filed three more motions. (19-0847 Dkt. ## 14-16.) On July 3,  
22 2019, the court struck these motions and warned Ms. Miner that it would consider

1 entering a vexatious litigant order against her if she continued to file motions in the  
2 remanded action. (19-0847 Dkt # 17.) Despite this warning, on July 8, 2019, Ms. Miner  
3 filed two more motions—one seeking the appointment of counsel and a second seeking  
4 an order directing Defendant King County Superior Court – Juvenile to “cease and  
5 desist.” (19-0847 Dkt. ## 18-19.) On July 9, 2019, the court struck these motions and  
6 directed the Clerk not to accept any further filings from Ms. Miner in this matter, except  
7 for a notice of appeal, and to return any such attempted filings to her. (19-0847 Dkt.  
8 # 23.)

9 On June 25, 2019, despite an order remanding case number C19-0848JLR to King  
10 County Superior Court for lack of subject matter jurisdiction, Ms. Miner filed three  
11 nonsensical motions. (*See* 19-0848 Dkt. ## 8, 10, 12; *see also* Dkt # 7 (remanding  
12 action).) On June 26, 2019, the court struck these motions. (19-0848 Dkt. # 17.) On  
13 July 1, 2019, Ms. Miner filed three more motions. (19-0848 Dkt. ## 18-20.) On July 3,  
14 2019, the court struck these motions and warned Ms. Miner that it would consider  
15 entering a vexatious litigant order against her if she continued to file motions in the  
16 remanded action. (19-0848 Dkt # 21.) Despite this warning, on July 8, 2019, Ms. Miner  
17 filed two more motions—one seeking the appointment of counsel and a second seeking  
18 an order directing Defendant King County Housing Authority Section Eight to “cease and  
19 desist.” (19-0848 Dkt. ## 18-19.) On July 9, 2019, the court struck these motions and  
20 directed the Clerk not to accept any further filings from Ms. Miner in this matter, except  
21 for a notice of appeal, and to return any such attempted filings to her. (19-0848 Dkt.  
22 # 27.)

1 On June 25, 2019, despite an order remanding case number C19-0849JLR to King  
2 County Superior Court for lack of subject matter jurisdiction, Ms. Miner filed a motion  
3 which the court construed as a motion for reconsideration of its remand order and six  
4 other nonsensical motions. (*See* 19-0849 Dkt. ## 7-13; *see also* Dkt # 6 (remanding  
5 action).) On June 26, 2019, the court denied Ms. Miner’s motion for reconsideration and  
6 struck the other six motions. (19-0849 Dkt. # 15.) On July 1, 2019, Ms. Miner filed  
7 three more motions. (19-0849 Dkt. ## 17-19.) On July 3, 2019, the court struck these  
8 motions and warned Ms. Miner that it would consider entering a vexatious litigant order  
9 against her if she continued to file motions in the remanded action. (19-0849 Dkt # 20.)  
10 Despite this warning, on July 8, 2019, Ms. Miner filed two more motions—one seeking  
11 the appointment of counsel and a second seeking an order directing Defendant Issaquah  
12 Police Department to “cease and desist.” (19-0849 Dkt. ## 22-23.) On July 9, 2019, the  
13 court struck these motions and directed the Clerk not to accept any further filings from  
14 Ms. Miner in this matter, except for a notice of appeal, and to return any such attempted  
15 filings to her. (19-0849 Dkt. # 26.)

16 On July 8, 2019, Ms. Miner filed three additional lawsuits: (1) *Miner v. Kanner*,  
17 No. C19-1047JLR (W.D. Wash.); (2) *Miner v. United States Federal Government*,  
18 No. C19-1048JLR (W.D. Wash.); and (3) *Miner v. King County Superior Court*,  
19 No. C19-1049JLR (W.D. Wash.). In case number C19-1047JLR, Ms. Miner filed seven  
20 motions, including five substantively identical motions seeking the recusal of the

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undersigned,<sup>2</sup> a motion to require the federal government to cease cyberhacking her and her family, and a motion for default judgment—despite failing to provide evidence that she had served any defendant. (19-1047 Dkt. ## 3, 6-7, 11-14.) In case number C19-1048JLR, Ms. Miner filed another motion seeking the recusal of the undersigned,<sup>3</sup> along with a series of additional, frivolous motions. (19-1048 Dkt. ## 5-8, 11, 16-20.)

On July 10, 2019, the court issued an order to show cause why it should not declare Ms. Miner to be a vexatious litigant and impose litigation restrictions upon her in the Western District of Washington. (19-0821 Dkt. # 17 at 8-12.) Ms. Miner failed to file a timely response to the court’s order to show cause. (*See generally* 19-0821 Dkt.)

Finally, on July 19, 2019, Ms. Miner filed her most recent lawsuit—*Miner v. Property Concepts, Inc.*, No. C19-1128JLR (W.D. Wash.).

### III. ANALYSIS

#### A. Preliminary Matters

Ms. Miner filed a notice of appeal in case numbers C19-0821JLR and C19-0822JLR. (*See* 19-0821 Dkt. # 19; 19-822 Dkt. # 25.) Ordinarily, a timely notice of appeal divests the district court of jurisdiction. *In re Rains*, 428 F.3d 893, 903 (9th Cir.

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<sup>2</sup> The court denied the first of these motions, and its ruling was upheld by the Chief Judge of the Western District of Washington. (7/15/19 Order (19-1047 Dkt. # 9); 8/1/19 Order (19-1047 Dkt. # 16); *see also* 7/11/19 Mot. (19-1047 Dkt. # 3).) Ms. Miner subsequently filed four additional motions which were substantively identical to the one that the undersigned judge denied and the Chief Judge upheld. (*See* 19-0147 Dkt. ## 11-14.)

<sup>3</sup> The court denied this motion, and the Chief Judge upheld the ruling. (7/15/19 Order (19-1047 Dkt. # 13); 8/12/19 Order (19-1048 Dkt. # 22).)



2005). However, if the order at issue is interlocutory, an appeal is premature and does not transfer jurisdiction to an appellate court. *See id.* (citing *Riggs v. Scrivner, Inc.*, 927 F.2d 1146, 1148 (10th Cir. 1991)). The Ninth Circuit Court of Appeals has repeatedly held that an order which dismisses a complaint but grants leave to amend is interlocutory and not an appealable final order. *See, e.g., WMX Technologies, Inc. v. Miller*, 104 F.3d 1133, 1135 (9th Cir. 1997); *Suarez-Smith v. BAC Home Loan Servicing, LP*, 512 Fed. App'x 722, 723 (9th Cir. Mar. 21, 2013) (unpublished) (“The district court dismissed [the] complaint with leave to amend . . . . Rather than filing an amended complaint or obtaining a final order of dismissal from the district court, [the plaintiff] filed a notice of appeal. We therefore lack jurisdiction.”). Thus, the court concludes that jurisdiction remains with this court, and it may consider the ultimate disposition of Ms. Miner’s complaints in case numbers C19-0821JLR and C19-0822JLR, as well as the entry of a vexatious litigant order against her.

#### **B. Dismissal of the Complaints**

On June 28, 2019, the court dismissed Ms. Miner’s complaints in the consolidated cases based on 28 U.S.C. § 1915(e)(2)(B). (19-0821 Dkt. # 9 at 4-5; 19-0822 Dkt. # 16 at 4-6.) Although Ms. Miner timely filed amended complaints (*see* 19-0821 Dkt. ## 18, 18-1), her amended complaints are as flawed as her original complaints. Ms. Miner must allege sufficient factual matter to place Defendants on notice of what her claims are and the grounds upon which they rest. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007). Yet, once again, there is no way for the court or Defendants to discern the nature of Ms. Miner’s claims based on her confusing and conclusory allegations. (*See id.*)

1 Because Ms. Miner failed to comply with the court's order to file amended complaints  
2 that remedy the deficiencies of her original complaints, the court DISMISSES her  
3 complaints without prejudice and without leave to amend.

#### 4 **C. Vexatious Litigant Order**

5 As noted above, Ms. Miner did not file a response to the court's order to show  
6 cause why it should not declare her to be a vexatious litigant and impose litigation  
7 restrictions upon her in the Western District of Washington. (*See generally* 19-0821  
8 Dkt.) Nevertheless, as detailed above, the court has carefully reviewed Ms. Miner's  
9 litigation history within the Western District of Washington. *See supra* § II. That review  
10 demonstrates that Ms. Miner has committed litigation misconduct by filing or removing  
11 numerous frivolous actions and repeatedly filing myriad nonsensical motions. *See id.*  
12 Ms. Miner's actions have placed an unwarranted burden on this district.

13 The All Writs Acts, 28 U.S.C. § 1651(a), provides district courts with the inherent  
14 power to enter pre-filing orders against vexatious litigants. *Molski v. Evergreen Dynasty*  
15 *Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007). Although such orders should be rare,  
16 "[f]lagrant abuse of the judicial process cannot be tolerated because it enables one person  
17 to preempt the use of judicial time that properly could be used to consider the meritorious  
18 claims of other litigants." *De Long v. Hennessey*, 912 F.2d 1144, 1148 (9th Cir. 1990).

19 A vexatious litigant order should be entered when (1) the litigant has received notice and  
20 a chance to be heard before the order is entered, (2) there is an adequate record for  
21 review, (3) the litigant's actions are frivolous or harassing, and (4) the vexatious litigant

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1 order is “narrowly tailored to closely fit the specific vice encountered.” *Id.* at 1147-48;  
2 *Molski*, 500 F.3d at 1057. The court reviews each of these factors in turn.

3 1. Notice and Opportunity to be Heard

4 The first factor requires that Ms. Miner be given an opportunity to oppose the  
5 order before it is entered. *De Long*, 912 F.2d at 1147. The court, however, is not require  
6 to hold an in-person hearing. *See Gavin v. City & Cty. of S.F.*, No. 15-CV-05202-EMC,  
7 2016 WL 126937, at \*2 (N.D. Cal. Jan. 12, 2016). Courts in this circuit have held that a  
8 motion to declare a litigant vexatious does not require oral argument. *See, e.g., Reddy v.*  
9 *MedQuist, Inc.*, No. 12-cv-1324-PSG, 2012 WL 6020010, at \*3 (N.D. Cal. Dec. 3, 2012)  
10 (“The requirement that the plaintiff receive an opportunity to be heard does not include  
11 an oral hearing; the opportunity to brief the issue fully satisfies due process  
12 requirements.”) (internal quotation marks omitted); *Fiechtner v. Young*, No. CV 13-9-M-  
13 DLC-JCL, 2013 WL 830653, at \*3 (D. Mont. Feb. 6, 2013) (“An opportunity to be heard  
14 is satisfied by providing an opportunity to file a brief, and does not necessarily require an  
15 oral or evidentiary hearing in court.”), *report and recommendation adopted by* 2013 WL  
16 830189 (D. Mont. Mar. 4, 2013). Additionally, at least one circuit court has held that a  
17 *pro se* litigant has a right to be heard on paper but is not entitled to an in-person hearing.  
18 *See, e.g., Tripathi v. Beaman*, 878 F.2d 351, 354 (10th Cir. 1989) (“The notice and  
19 opportunity requirement does not, however, require an in-person hearing in the district  
20 court.”).

21 The court concludes that the first *De Long* factor is met because Ms. Miner  
22 received notice via the court’s order to show cause and was permitted an opportunity to

1 respond—although she failed to do so. *See Molski*, 500 F.3d at 1058-59 (plaintiff had  
2 sufficient notice when he was served with the motion and had an opportunity to respond).

### 3 2. Adequate Record for Review

4 The second *De Long* factor is merely procedural. *De Long*, 912 F.2d at 1147 (“An  
5 adequate record for review should include a listing of all the cases and motions that led  
6 the district court to conclude that a vexatious litigant was needed.”). The second factor  
7 requires only that the court compile a list of actions and filings by the litigant. *See, e.g.,*  
8 *Hurt v. All Sweepstakes Contests*, No. C-12-4187-EMC, 2013 WL 144047, at \*5 (N.D.  
9 Cal. Jan. 11, 2013) (finding the second *De Long* factor was met where the court  
10 “compiled a list of all the actions Plaintiff filed”). As discussed in detail in this order,  
11 there is an adequate record for review. *See, e.g., id.* at 1059 (“The record before the  
12 district court contained a complete list of the cases filed by [the plaintiff] . . . , along with  
13 the complaints from many of those cases. Although the district court’s decision . . . did  
14 not list every case filed by [plaintiff], it did outline and discuss many of them.”). The  
15 second factor is met because the court reviewed the docket in each of Ms. Miner’s cases  
16 in this district and discussed each of them in detail. *See supra* § II.

### 17 3. Frivolous or Harassing Filings

18 The third *De Long* factor—whether the litigant’s actions are frivolous or  
19 harassing—“gets to the heart of the vexatious litigant analysis.” *Molski*, 500 F.3d at 1059  
20 (quoting *De Long*, 912 F.2d at 1148). The court must make substantive findings and  
21 must look at both the number and content of the litigant’s filings. *Id.* The plaintiff’s  
22 claims must not only be numerous, but also patently without merit. *Id.* As discussed

1 above, Ms. Miner’s actions have been both numerous and patently without merit. *See*  
2 *supra* § II; *see also, e.g., Moy v. United States*, 906 F.2d 467, 468-70 (9th Cir. 1990)  
3 (entering a vexatious litigant order when the plaintiff filed two consecutive actions  
4 against the defendant arising out of the same set of operative facts—each involving  
5 several complaints and numerous motions); *Ortiz v. Cox*, 759 F. Supp. 2d 1258, 1263-64  
6 (D. Nev. 2011) (entering a vexatious litigant order where the plaintiff had filed seven  
7 actions against the defendants); *Johns v. Los Gatos*, 834 F. Supp. 1230, 1232 (N.D. Cal.  
8 1993) (entering a vexatious litigant order when the plaintiff had filed five similar actions  
9 over a period of ten years).

10 In its July 10, 2019, order to show cause, the court noted the appropriate standard  
11 for determining whether a litigant’s actions are frivolous or harassing, but reserved  
12 making a final determination until after Ms. Miner had an opportunity to respond and  
13 explain her litigation conduct. (19-0821 Dkt. # 17 at 8-12.) Ms. Miner failed to file a  
14 timely response to the court’s order. (*See generally* 19-0821 Dkt.) Accordingly, based  
15 on Ms. Miner’s profligate case filings and her failure to respond to the court’s order to  
16 show cause, the court finds that she is a vexatious litigant upon whom the court should  
17 impose certain pre-filing requirements.

#### 18 4. Narrowly Tailored

19 Finally, a vexatious litigant order “must be narrowly tailored to the vexatious  
20 litigant’s wrongful behavior.” *Molski*, 500 F.3d at 1961. “Narrowly tailored orders are  
21 needed ‘to prevent infringement of the litigator’s right of access to the courts.’” *De*

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1 Long, 912 F.2d at 1148 (citing *Woods v. Santa Barbara Chamber of Commerce, Inc.*, 705  
2 F.2d 1515, 1525 (9th Cir. 1983)).

3 Toward this end, the court finds it appropriate to deem Ms. Miner a vexatious  
4 litigation and to impose the following narrowly-tailored pre-filing requirements upon her  
5 by directing the Clerk as follows and entering the following order:

6 (1) The Clerk is DIRECTED to file all of Ms. Miner's *pro se* complaints in a  
7 miscellaneous case number specifically designated for this purpose pending the  
8 court's review of each such complaint;

9 (2) The Clerk is DIRECTED not to issue summons in any *pro se* action of Ms.  
10 Miner without approval of the presiding court; and

11 (3) For any complaint Ms. Miner files that the court determines suffers from the  
12 same defects outlined above, the court may dismiss the action on the basis of  
13 this vexatious litigant order without issuing an order to show cause.

#### 14 IV. CONCLUSION

15 Based on the foregoing analysis, the court DISMISSES Ms. Miner's complaints in  
16 the consolidated case numbers C19-0821JLR and C19-0822JLR with prejudice and

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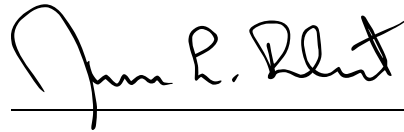
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1 without leave to amend. Further, the court DECLARES Ms. Miner to be a vexatious  
2 litigant subject to the narrowly tailored pre-filing restrictions as described herein.

3 Dated this 14th day of August, 2019.

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6 JAMES L. ROBART  
7 United States District Judge  
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